

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

OUTLAW LABORATORY, LP,

Plaintiff,

v.

Case No. 19-13233

VAN BORN & PELHAM PETRO, INC.,
et al.,

Defendants.

**ORDER DISMISSING PLAINTIFF'S CLAIMS AGAINST REMAINING DEFENDANTS
AND TERMINATING AS MOOT PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT**

Plaintiff Outlaw Laboratory, LP, brings this action against Defendants for false advertising under the Lanham Act, 15 U.S.C. § 1125(a)(1)(B), violations of the Michigan Consumer Protection Act, Mich. Comp. Laws § 445.903, and violations of Michigan's common law tort of unfair competition. (ECF No. 1, PageID.15-21.) Plaintiff alleges that Defendants sold illicit male-enhancement pills, harming Plaintiff's business selling competing pills.

Plaintiff moved for default judgment against Defendants Van Born & Pelham Petro, Inc., Emo Enterprises, Inc., 9800 Gas & Go, Inc., Schoolcraft Gas & Mart, Inc., Star Gas & Go, Inc., and Fenkell Gas & Mart, Inc., on May 26, 2020. (ECF No. 34.) On June 29, 2020, Plaintiff filed a "Notice of Voluntary Dismissal" for the same Defendants, who are the only remaining Defendants in this action. (ECF No. 37.) Plaintiff states Defendants are dismissed "with prejudice." (*Id.*, PageID.219.)

Federal Rule of Civil Procedure 41(a)(1)(A) provides that “[a] plaintiff may dismiss an action without a court order by filing . . . a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment.” *Aamot v. Kassel*, 1 F.3d 441, 443 (6th Cir. 1993) (“Fed. R. Civ. P. 41(a)(1) limits the plaintiff’s authority to dismiss his complaint . . . without the permission of either the adverse party or the court to the period of time before the defendant files an answer or a motion for summary judgment.”). “Unless the notice or stipulation states otherwise, the dismissal is without prejudice.” Fed. R. Civ. P. 41(a)(1)(B).

The remaining Defendants have not filed an answer or moved for summary judgment. They may be dismissed without court approval and with prejudice, according to the terms of Plaintiff’s notice. Fed. R. Civ. P. 41(a)(1)(A), (B). The court will close this case and will terminate all pending motions as moot. *Pettrey v. Enterprise Title Agency, Inc.*, 584 F.3d 701, 703 (6th Cir. 2009) (quoting *UAW v. Dana Corp.*, 697 F.2d 718, 720-21 (6th Cir. 1983) (A motion is moot “when the issues presented are no longer ‘live’ or the parties lack a legally cognizable interest in the outcome.”). Accordingly,

IT IS ORDERED that Plaintiff’s claims against Defendants Van Born & Pelham Petro, Inc., Emo Enterprises, Inc., 9800 Gas & Go, Inc., Schoolcraft Gas & Mart, Inc., Star Gas & Go, Inc., and Fenkell Gas & Mart, Inc., are DISMISSED WITH PREJUDICE.

IT IS FURTHER ORDERED that Defendant’s “Motion for Default Judgment” (ECF No. 34) is TERMINATED AS MOOT.

s/Robert H. Cleland /
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: July 6, 2020

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, July 6, 2020, by electronic and/or ordinary mail.

s/Lisa Wagner /
Case Manager and Deputy Clerk
(810) 292-6522

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